

Amendments to House Bill No. 12  
1st Reading Copy

For the House Judiciary Committee

Prepared by Rachel Weiss  
January 21, 2015 (10:49am)

1. Page 1, line 24 through line 26.

**Strike:** subsection (4) in its entirety

**Insert:** "(4) (a) Either party to a dissolution or legal separation may request entry of a decree of dissolution or legal separation without a hearing by filing an affidavit with the court.

(b) The court may enter a decree of dissolution or legal separation without a hearing when:

(i) the affidavit sets forth a prima facie case that:

(A) the parties have reached a voluntary resolution of all matters related to the dissolution or legal separation;

(B) the parties stipulate to entry of the decree by affidavit in lieu of a hearing; or

(C) a party is found by the court to be in default; and

(ii) it appears to the court that:

(A) the jurisdictional requirements of 40-4-104 exist;

(B) the parties have complied with the financial disclosure provisions of 40-4-252 through 40-4-254 or 40-4-257;

(C) (I) a separation agreement, as provided for in 40-4-201(1), containing provisions for disposition of any property owned by either or both parties, distribution of any debts owed by either or both parties, maintenance of either party, and support, parenting, and parental contact with any minor children of the parties has been filed with the court prior to or concurrently with the affidavit; or

(II) in the case of default, the proposed decree contains identical relief sought in the petition for dissolution or legal separation;

(D) the party filing the affidavit waives the right to appear personally in court to present testimony as to any matters and requests the court to enter a decree without a hearing or the necessity of entry of findings of fact and conclusions of law;

(E) the affidavit includes a proposed decree form; and

(F) the affidavit includes the following statement: "Failure to object to the proposed decree of dissolution or legal separation within 14 days of service shall be presumed to be consent to the proposed form of the decree, and the court may proceed to enter the decree as proposed by affiant unless, within 14 days of service, you file an objection with the court and serve your objection on all parties entitled to service in this action."

(c) Regardless of compliance with the affidavit requirements of subsection (4)(b), the court may require the personal

appearance of a party or interested person for any reason the court considers necessary.

(d) Unless all parties in the action have submitted affidavits for dissolution of marriage or legal separation without a hearing, to ensure all parties are apprised of the request for entry of the decree of dissolution or separation without a hearing and have an opportunity to raise an objection to the entry of the decree, the party who filed the affidavit shall serve the affidavit and the proposed decree on all parties to the action.

(e) The nonrequesting party has 14 days from the date of service of the affidavit to object to entry of the decree of dissolution or legal separation without a hearing. If no objection is filed within 14 days, the court may proceed to enter the decree as proposed by the requesting party.

(f) If all parties in the action have submitted affidavits for dissolution of marriage or legal separation without a hearing and the court determines that entry of a decree is appropriate, the court may enter the decree without a hearing or waiting for the 14-day objection period to pass."

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